

JUL 29 2015

SEAN F. McAVOY, CLERK  
DEPUTY  
YAKIMA, WASHINGTON

1 UNITED STATES OF AMERICA

2 vs.

3 GILBERT ONEPENNEE

1:14-CR-2092-SAB-12

## 4 AGREEMENT FOR PRE-TRIAL DIVERSION

5 It is alleged by an Indictment returned by the Grand Jury on December 9, 2014, in Cause  
6 Number 1:14-CR-2092-SAB-9 that GILBERT ONEPENNEE committed the following offenses  
7 against the United States in the Eastern District of Washington:

8 Count 1: Conspiracy to Embezzle and Theft from Indian Tribal Organization, all in violation  
9 of Title 18, United States Code, Section 1163 and 371.

10 Counts 49-56: Theft from Indian Tribal Organization, and did aid and abet the same; all in  
11 violation of Title 18, United States Code, Sections 1163 and 2.

12 Upon accepting responsibility for your behavior and by your signature on this Agreement, it  
13 appearing, after an investigation of the offenses and your background, that the interests of the United  
14 States and your own interest and the interests of justice will be served by the following procedure,  
15 therefore:

16 On the authority of the Attorney General of the United States, by Michael C. Ormsby, United  
17 States Attorney for the Eastern District of Washington, prosecution in this District for this offense  
18 shall be deferred for a period of 18 months from the date of the filing of this Agreement, provided  
19 you abide by the following conditions and the requirements of the Pre-Trial Diversion program set  
20 out below.

21 Should you violate any conditions of this supervision, the United States Attorney or his  
22 designee may revoke or modify any conditions of this Pre-Trial Diversion program or change the  
23 period of supervision for an additional period which shall in no case exceed 18 months from the  
24 original termination date of the diversion agreement. The United States Attorney may release you  
25 from supervision at any time. The United States Attorney may at any time within the period of your  
26 supervision.

1 supervision reinstate prosecution for this offense should you violate the conditions of this  
2 supervision and will furnish you with notice specifying the conditions of your program which you  
3 have violated. The decisions of the U.S. Attorney are made at his sole discretion and are not subject  
4 to challenge.

5 If, upon successful completion of the program and your period of supervision, a Pre-Trial  
6 Diversion report is received to the effect that you have complied with all the rules, regulations and  
7 conditions above mentioned, the pending indictment will be dismissed.

8  
9 CONDITIONS OF PRE-TRIAL DIVERSION

10 1. You shall not violate any law (federal, state and local). You shall immediately contact  
11 your Pre-Trial Diversion supervisor if arrested and/or questioned by any law enforcement officer for  
12 any reason including, but not limited to, traffic infractions. A traffic infraction, other than driving  
13 under the influence, will not be deemed to be a violation of this agreement.

14 2. You shall be employed regularly at a lawful occupation or otherwise comply with the  
15 terms of the special program described below. In the absence of a special program, when out of  
16 work, you shall notify your diversion supervisor at once. You shall consult him/her prior to job  
17 changes. In the event you are self-employed, you shall permit your diversion supervisor and/or his  
18 /her designee to review all books, accounts, receipts, and/or tax records kept or maintained in  
19 connection with said self-employment.

20  
21 3. You shall continue to live in this judicial district. If you desire to move out of the district,  
22 you shall obtain permission from your diversion supervisor so that the appropriate transfer of  
23 program responsibility can be made prior to your relocation.

24  
25 4. You shall report to your diversion supervisor as directed and keep him/her informed of  
26 your whereabouts. Any failure to abide by the meeting or reporting requirements established by  
27 your diversion supervisor will be deemed to be an irrevocable violation of the instant Agreement.



1 5. You shall obtain and maintain, if legally possible, a valid driver's license and the  
2 appropriate vehicle insurance.

3 6. You shall not possess a firearm.

4 7. You agree to comply with recommended drug and alcohol treatment, as directed by your  
5 diversion supervisor.

6 8. You shall not possess, control and/or consume any controlled substance, which includes  
7 marijuana, or items commonly used for the consumption of such substances (drug paraphernalia), or  
8 be in any place where such substances are located, controlled and/or consumed.

9  
10 9. You shall submit to random urinalysis upon the request or at the direction of your  
11 diversion supervisor.

12 10. You shall provide information and assistance in the federal investigation and prosecution  
13 of others who have the same or greater involvement than your involvement in violations of the law  
14 pertaining to the Indictment filed on December 9, 2014, 1:14-CR-2092-SAB.

15  
16 11. Pertaining to the Indictment filed on December 9, 2014, 1:14-CR-2092-SAB, you  
17 understand and agree to participate in full debriefings by federal investigative agencies about your  
18 knowledge of illegal conduct, at time and places to be decided by these agencies. You agree to  
19 provide complete, accurate, and truthful information during the debriefings. It is understood that  
20 you may have an attorney present at the debriefings. You agree to participate in any future court  
21 proceedings involving any named or unnamed co-conspirators and any other person involved in  
22 criminal activity, by testifying completely and truthfully. Such court proceedings include grand jury  
23 proceedings, trials, and sentencing hearings.

24  
25 12. You shall pay restitution to the Confederated Bands and Tribes of the Yakama Nation in  
26 the amount of \$20,615.00.

1 13. You agree that the United States may, at its option and upon written notice to you,  
2 withdraw from this diversion agreement if you fail to provide truthful, complete, and honest  
3 information during debriefings, testimony before the grand jury, or any court proceeding.

4 14. You understand that this agreement does not protect you from prosecution for perjury,  
5 obstruction of justice, or any other offense should you commit any crime during your cooperation  
6 under this agreement.

7 15. You acknowledge that you have not yet completed providing cooperation at the time of  
8 the entry into this diversion agreement and that the United States may withdraw from this diversion  
9 agreement if you fail to provide information that is fully truthful and complete and/or you fail to  
10 testify truthfully and completely at any hearing, trial, grand jury proceedings, or other court  
11 proceedings if called as a witness by any party.  
12

13 16. You acknowledge that if you fail to complete your efforts to provide cooperation by  
14 refusing reasonable requests to meet with law enforcement agents, by providing false information or  
15 withholding information from agents, or by failing to testify completely, truthfully, and honestly,  
16 this agreement shall be considered breached and null and void. The United States may then  
17 prosecute the Defendant on all available charges, including making false statements and perjury.  
18

19 17. You shall strive to achieve the desired goals of the program.  
20

21 I, GILBERT ONEPENNEE, assert and certify that I am aware of the fact that the Sixth  
22 Amendment to the Constitution of the United States provides that in all criminal prosecutions the  
23 accused shall enjoy the right to a speedy and public trial. I also am aware that Rule 48(b) of the  
24 Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment,  
25 information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an  
26 information, or in bringing a defendant to trial. I hereby request that the United States Attorney for  
27  
28

1 the Eastern District of Washington defer any prosecution of me for Count 1, Conspiracy to Commit  
2 Theft from Indian Tribal Organization, in violation of Title 18, United States Code, Sections 371 and  
3 1163; and Counts 49-56, Theft from Indian Tribal Organization, in violation of Title 18, United  
4 States Code, Sections 1163 and 2, for a period of 18 months, and to induce him to defer such  
5 prosecution I agree and consent that any delay from the date of this Agreement to the date of the  
6 initiation of the prosecution, as provided for in the terms expressed herein, shall be deemed to be a  
7 necessary delay at my request and I waive any defense to such prosecution on the ground that such  
8 delay operated to deny my rights under Rule 48(b) of the Federal Rules of Criminal Procedure and  
9 the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the  
10 prosecution by reason of the running of the statute of limitations for the effective period of this  
11 Diversion Agreement.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 I hereby state that the above has been read by me and explained to me by my attorney. I  
2  
3 understand the conditions of my Pre-Trial Diversion and agree that I will comply with them.

4   
5 GILBERT ONEPENNEE

7/29/2015  
DATE

6   
7 KENNETH D. THERRIEN  
8 Attorney for Gilbert Onepennee

7/21/2015  
DATE


9   
10 THOMAS J. HANLON  
11 Assistant United States Attorney

7/29/15  
DATE

12   
13 U.S. PROBATION OFFICER

7/29/2015  
DATE

14  
15 APPROVED without passing judgment on the merits or wisdom of this diversion.

16   
17 STANLEY A. BASTAIN  
18 United States District Court Judge

July 29, 2015  
DATE